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Attached is the daily news report for August 24.

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## BUREAU OF LAND MANAGEMENT

### DAILY NEWS REPORT - UTAH

#### **UTAH – TOP STORIES – AUGUST 24, 2017**

1. **Commentary: Wild horse summit excludes key advocates, public**

*The Salt Lake Tribune, Aug. 23 | Priscilla Feral*

Organizers of a wild horse summit taking place in Utah this week are claiming they've excluded the public and key advocates like Friends of Animals (FoA) to "protect participants and promote dialogue."

2. **Commentary: Utah may be trading a dinosaur wonder for a coal mine**

*The Salt Lake Tribune, Aug. 23 | Heidi McIntosh*

A funny thing happened in rural southern Utah after President Clinton designated the 1.7 million-acre Grand Staircase-Escalante National Monument in 1996. Utah politicians howled, in chorus with coal, oil and gas interests, that the monument would spell economic doom for the region. But not so, as it turns out.

3. **Breathtaking Utah monuments to test Trump, Antiquities Act**

*The Washington Times, Aug. 23 | Ben Wolfgang*

President Bill Clinton's decision in 1996 to create the sprawling Grand Staircase-Escalante National Monument in Utah was so incredibly controversial that he couldn't even set foot in the state to make the announcement, instead holding a photo-op at the Grand Canyon in neighboring Arizona.

4. **Bishop seeks full investigative report on BLM agent**

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SALT LAKE CITY — Rep. Rob Bishop, R-Utah, wants the names and other redacted information revealed in an ethics probe of the Bureau of Land Management law enforcement supervisory agent once in charge of Utah and Nevada.



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#### **5. Commentary: Zinke leaves San Juan County in economic limbo**

*The Salt Lake Tribune, Aug. 24 | Nazz Kurth*

Petzl makes climbing equipment that is used around the world to reach the most inaccessible places, both by professionals and by those who enjoy the great outdoors. One of the most famous climbing areas in the world is right here in Utah: Indian Creek.

#### **6. Parts of National Monument in Utah May Lose Federal Protections**

*The New York Times, Aug. 24 | Julie Turkewitz, Lisa Friedman*

BEARS EARS NATIONAL MONUMENT, Utah — Parts of this sprawling region of red-rock canyons, towering mesas and ancient Native American sites in southeastern Utah could lose their strict federal protection as a national monument, under a recommendation that Interior Secretary Ryan Zinke is expected to issue on Thursday.

#### **7. Zinke won't eliminate any national monuments**

*Washington Post, Aug. 24 | Matthew Brown and Brady McCombs, AP*

BILLINGS, Mont. — Interior Secretary Ryan Zinke said he's recommending that none of 27 national monuments carved from wilderness and ocean and under review by the Trump administration be eliminated.

#### **8. Bears Ears, Grand-Staircase won't be eliminated, Zinke says, but they may be shrunk**

*The Salt Lake Tribune, Aug. 24 | Brian Maffly*

After a four-month review, Interior Secretary Ryan Zinke is recommending reductions to “a handful” of national monuments, including possibly Utah’s Bears Ears and Grand Staircase-Escalante — but no outright erasing of any of the 27 public land preserves under scrutiny.



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#### **9. BLM: Special agent tried to conceal misuse of artifacts — IG**

*E&E News, Aug. 24 | Scott Streeter*

A senior Bureau of Land Management law enforcement official who was found to have previously violated federal ethics rules at the Burning Man festival and clashed with congressional leaders is the subject of a new inspector general report that found he mishandled ancient stones being held as evidence in a criminal probe.

#### **E&E/NATIONAL NEWS – TOP STORIES**

##### **1. Prosecutors to retry Bundy Ranch standoff defendants for 3rd time**

*The Republic | azcentral.com, Aug. 22 | Robert Anglen*

Federal prosecutors who didn't succeed in the Bundy Ranch standoff trial will retry and retry again.

##### **2. Tribal coalition joins blitz to save national monument areas**

*The Durango Herald, Aug. 23 | Brady McCombs, AP*

SALT LAKE CITY – Conservation and tribal groups are airing TV ads, sending letters to President Donald Trump and creating parody websites in a last-minute blitz to stop Interior Secretary Ryan Zinke from downsizing or eliminating national monument areas that cover large swaths of land and water from Maine to California.

##### **3. Environmental groups says industry had undue influence on sage grouse review**

*The Casper Star Tribune, Aug. 24 | Heather Richards*

Environmental groups are crying foul after a letter from an oil and gas advocacy group to Interior Secretary Ryan Zinke surfaced indicating energy may have played a significant role in the department's recent, and controversial, sage grouse decision.



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#### **4. Interior overhauls sage grouse conservation**

*High Country News, Aug. 24 | Tay Wiles*

On a windy morning in September 2015, Interior Secretary Sally Jewell stood at a podium on a patch of scruffy earth at Colorado's Rocky Mountain Arsenal National Wildlife Refuge to announce that the greater sage grouse would not need federal Endangered Species Act protection after all. "What does this mean?" she said to an applauding crowd. "It means certainty. For states, for communities, for ranchers, for developers, who want to know where they can develop without compromising the health of the amazing sagebrush landscape."

#### **5. COAL: DOE report blames natural gas for closures**

*E & E News, Aug. 24 | Hannah Northey and Peter Behr*

A long-awaited Energy Department staff report on electricity markets and reliability singles out natural gas — not renewables or environmental regulations — as the leading driver of coal plant closures in this decade, challenging the Trump administration's case for saving coal.

#### **6. NATIONAL MONUMENTS: Zinke pushes to shrink 'handful' of sites, no eliminations**

*E & E News, Aug. 24 | Jennifer Yachnin*

Interior Secretary Ryan Zinke today recommended that President Trump redraw the boundaries of a "handful" of national monuments but will not call for the elimination of any sites, he told the Associated Press.

#### **7. REGULATIONS: Group sues for EPA documents on rule rollbacks**

*E & E News, Aug. 24 | Maxine Joselow*

An environmental group is suing U.S. EPA over its failure to release regulatory reform documents under the Freedom of Information Act.



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**8. FOREST SERVICE: New chief a 'stubborn gentleman' who listens to his rivals**

*E & E News, Aug. 24 | Marc Heller*

When Tony Tooke became regional forester for 13 Southern states in 2015, he made a promise that's shaped his reputation at the Forest Service: He wanted to meet soon with every state forester in the region.

**9. WILD HORSES: Exploding population risks starvation — Interior official**

*E & E News, Aug. 24 | Price/Sonner, AP/Las Vegas Review-Journal*

Federally protected wild horses in 10 Western states pose a threat to rangelands, state and federal officials said at a conference yesterday.

**10. GRID: 'If it's a plan to save coal, it's not a very good one'**

*E & E News, Aug. 24 | Hannah Northey*

A "schizophrenic" attempt to rescue the coal industry. A level-headed assessment. A "nothing burger."

That's a sampling of reactions to the release late yesterday of a much-hyped, long-awaited report from Energy Department staff in response to Secretary Rick Perry's concerns about coal and nuclear plant closures. Some are calling the 187-page compilation of federal data a Rorschach test for energy policy wonks.

**11. AP Explains: What's a National Monument?**

*US News, Aug. 23 | John Flesher, AP*

U.S. Interior Secretary Ryan Zinke is recommending boundary revisions for some national monuments but no eliminations. President Donald Trump ordered Zinke to conduct an unprecedented review of 27 monuments established by former presidents over more than two decades on lands revered for their natural beauty and historical significance.



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12. **NATIONAL MONUMENTS: Zinke says 'campaign' drew comments favoring protections**

*E&E News, Aug. 24 | Jennifer Yachnin and Cecelia Smith-Schoenwalder*

Interior Secretary Ryan Zinke today appeared to dismiss more than 1 million public comments urging the preservation of dozens of national monuments as the result of a "well-orchestrated national campaign," as he called on President Trump to slash the acreage of a "handful" of sites.



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#### UTAH – FULL STORY

##### 1. **Commentary: Wild horse summit excludes key advocates, public**

*The Salt Lake Tribune, Aug. 23 | Priscilla Feral*

Organizers of a wild horse summit taking place in Utah this week are claiming they've excluded the public and key advocates like Friends of Animals (FoA) to "protect participants and promote dialogue."

The main concern of a national wild horse summit should be the protection of wild horses and keeping them roaming free on western public lands, not manipulated by humans by roundups or forcibly drugging them with fertility control. Especially since they are facing threats like never before — the current administration's dark agenda includes killing wild horses in holding facilities who should have never been rounded up in the first place.

But the truth is the organizers don't want the public to get wind of their pro-slaughter agenda and wild horse extinction plan that placates cattle and sheep ranchers, something Friends of Animals has been railing against in the court room for years.

Today wild horses face increasingly commercialized Western public lands. Upwards of 2 million cattle graze public lands, and the government has authorized thousands of oil, gas and mineral extraction projects on federally owned properties. The result truly is a crisis.

These commercial activities have substantially fragmented and reduced the amount of habitat left for wild horses and other wildlife. Since the passage of the Wild Horse and Burro Act of 1971, wild horses have lost an additional 41 percent of their habitat—more than 20 million acres.

Adding insult to injury is the so-called advocacy groups who are invited to the table profit from the roundups of wild horses and are assets to the Bureau of Land Management's wild horse adoption program. They do not have any interest in ensuring wild horses roam free on Western public lands. The Wild Mustangs Foundation actually is raising money to keep wild horses in a zoo-like setting.

We are not surprised by this farce of a summit as FoA experienced firsthand the abusive attitude towards wild horses by people wedded to ranchers. We visited BLM's Burns Oregon District Office and asked where the best chance of seeing wild horses was since there are 19 Herd Management Areas in the state and the response was, "Have you been to our Wild Horse Corral?



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Our hearts sunk. That the agency charged with protecting America's wild horses and their habitat considers the best place to see wild horses in Oregon is at one of their dismal holding prisons, is frightening. At the Wild Horse Corral, a large mural of a wild horse pointing visitors to a self-guided auto tour of the facility said, "See the real thing." That the BLM should consider 800 wild horses crammed into 41 dirt paddocks imprisoned in a holding facility "the real thing" is a disgrace and an insult to the American public.

That's dialogue they don't want to hear at the wild horse summit.

*Priscilla Feral is president of Friends of Animals.*

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#### **2. Commentary: Utah may be trading a dinosaur wonder for a coal mine**

*The Salt Lake Tribune, Aug. 23 | Heidi McIntosh*

A funny thing happened in rural southern Utah after President Clinton designated the 1.7 million-acre Grand Staircase-Escalante National Monument in 1996. Utah politicians howled, in chorus with coal, oil and gas interests, that the monument would spell economic doom for the region. But not so, as it turns out.

Instead, the communities in this rugged landscape thrived. They've grown sustainable economies and rejected the boom-and-bust fossil fuel industries that have long pillaged the West's fragile landscapes.

Between 2001 and 2015, the population in the two counties bordering Grand Staircase grew by 13 percent, jobs increased 24 percent and real personal income grew 32 percent. In other words, the monument has been a hit for jobs and the economy. Travel and tourism boomed in the region, offering 1,630 jobs around Grand Staircase; new business has bloomed in the desert, and property values have grown.

In the big picture, recreation from adventure-seekers, hikers, amateur geologists and families simply getting outdoors now funnels more than \$12 billion into Utah's economy.

Why are people flocking to see Grand Staircase-Escalante? One big draw is the trove of spectacular dinosaur fossils that are found nowhere else on Earth.



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Over the past 21 years, 21 new species of dinosaurs have been unearthed by scientists in the monument, leading some to call these lands a “Dinosaur Shangri-la,” or a “geologic wonderland.” Grand Staircase holds one of the richest collections of fossils from the Late Cretaceous Period, which gives scientists and the public alike an unparalleled window into the dinosaurs that lived in these lands 10 million years ago. They included frilled dinosaurs, duck-billed dinosaurs and two new astounding tyrannosaurs (whose names translate to “monstrous murderer” and “king of gore,” sure to draw awe from young dinosaur enthusiasts).

And for historians and anthropologists, the region is a window into the human exploration of the West from the civilizations of the Southern Paiute and Navajo peoples to the expeditions of John Wesley Powell and the trails of the Mormons pioneers seeking refuge in the desert. Ghost towns, rock houses, cowboy camps and the renowned Hole-in-the-Rock Trail all are preserved within the boundaries of the monument. Grand Staircase’s mind-twisting slot canyons draw adventurers from around the world. Peregrine falcons, bald eagles, mountains lions, and bears roam these lands.

In myriad ways, national monument protections for the rugged lands of Grand Staircase, managed under federal law well before Utah achieved statehood, have served us well. It’s a success story for the Antiquities Act, the 1906 law that authorizes presidents to protect the nation’s archaeological, scenic and scientific wonders as national monuments.

Still, that remarkable success hasn’t stopped the fossil fuel industry from a campaign to roll back protections for the monument. Banking on millions in contributions to the Trump campaign and campaign funds for key Utah lawmakers, the industry looks determined to bring coal mining and oil and gas drilling to these unspoiled landscapes.

Mining companies have long coveted access to the coal deposits of the Kaiparowits Plateau, a rugged and remote area current protected by its monument status. It is the same plateau that holds troves of dinosaur fossils and the promise of new discoveries. While demand for coal slumps further into its inexorable decline, the industry is pursuing a last-ditch effort to wring profits from lands that belong to all Americans who value their natural beauty and quiet solitude. President Trump’s sham review of national monuments like Grand Staircase seems designed to help the coal industry hold off a clean energy future for us just a little longer.

While the Trump administration appears eager to convert monument lands into a coal mine, an intricate land swap that was negotiated 20 years ago may prove impossible to unravel.



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After President Clinton designated the monument, Congress passed legislation modifying its boundaries 1998. Congress then approved a land swap in which the state of Utah received 145,000 acres of mineral-rich federal lands and \$50 million from the federal treasury.

A lot of folks have forgotten about that deal. But it's hard to imagine the people of Utah agreeing to reimburse the federal treasury for the \$50 million, never mind relinquishing control of the 145,000 acres they've assumed as a state asset. That \$50 million has since gone to support Utah's public schools. No one should ignore the enormous benefit to the state of Utah from this deal — or that reversing the monument now would constitute an historic rip-off by the state.

Stripping the Grand Staircase of its monument protections, in whole or in part, and turning it over to mining and drilling outfits would be destructive and unlawful. This dinosaur "Shangri-la" is undeniably a national treasure. It should remain protected, not lost forever to pad the balance sheets of the fossil fuel industry for a few years.

*Heidi McIntosh is a managing attorney and public lands expert at Earthjustice.*

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### 3. **Breathtaking Utah monuments to test Trump, Antiquities Act**

*The Washington Times, Aug. 23 | Ben Wolfgang*

President Bill Clinton's decision in 1996 to create the sprawling Grand Staircase-Escalante National Monument in Utah was so incredibly controversial that he couldn't even set foot in the state to make the announcement, instead holding a photo-op at the Grand Canyon in neighboring Arizona.

Now, two decades later, the Trump administration is considering paring down the expansive site in what environmentalists, Western land advocates and energy industry leaders agree is a key test of the century-old Antiquities Act, the 1906 law that gives presidents authority to create monuments.

With the possible exception of the Bears Ears National Monument, also in Utah, Grand Staircase-Escalante is by far the most hotly debated of all the monuments currently under review by Interior Secretary Ryan Zinke, who is taking a second look at more than 20 locations across the country. It was the first example of what became commonplace during the Obama



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administration: A Democratic president using monument designations to please environmental supporters, and showing for the first time in recent history how a monument could become a battleground over energy development, conservation, environmentalism and local control over land use.

In the case of the 1.9-million-acre Grand Staircase — which, without a doubt, is home to breathtaking natural wonders — the fact that it's more than 20 years old hasn't calmed the furor over its creation.

Opponents of the designation — including current and past Utah officials who say the Clinton White House steamrolled over their concerns and didn't even bother to tell them of the pending announcement until the day before — believe Mr. Zinke and President Trump have in front of them a key opportunity to right a decades-old wrong that's still harming local economies in the state, greatly depressing energy development and stands as a bright reminder of just how much unchecked power presidents wield under the Antiquities Act.

"You can't overstate how outraged the people in Utah and across the West were by this action. It's a wound that has not healed. They haven't gotten over it," said William Perry Pendley, president of the Mountain States Legal Foundation, an organization that led a yearslong legal fight against the creation of the monument that finally ceased after it became clear the George W. Bush administration would not reverse Mr. Clinton's move.

There's no greater example of the controversy associated with Grand Staircase, Mr. Pendley and others say, than the fact Mr. Clinton, then-Vice President Al Gore and environmental activists such as actor Robert Redford chose to hold a signing ceremony in Arizona rather than in Utah. The very creation of the monument, critics say, was much more about shutting off the vast supply of coal that sits beneath the monument than it was about creating a new national treasure.

Utah officials knew that at the time, and the Clinton White House made the shrewd political decision to avoid the state entirely when making the designation rather than risk embarrassing mass protests.

"Clinton was lying to Utah officials right up until the eleventh hour when he designated that monument," said Kathleen Sgamma, president of the Western Energy Alliance.



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Longstanding rumors are that Mr. Redford and other environmentalists were told of the decision to create the monument even before Utah officials, including then-Gov. Mike Leavitt, a Republican.

"As the governor, I had not seen a map. I had not read the proclamation or, for that matter, was I even invited," he later testified to Congress. "This isn't about courtesy, it is about process. It is about public trust. A major land decision, perhaps the biggest land decision that has been made or will be made in the next two decades, had occurred. Obviously, this is not the way public land decisions should or were ever intended to be made."

Mr. Leavitt could not be reached for comment. Bruce Babbitt, Mr. Clinton's interior secretary at the time, did not respond to requests for comment.

It's unclear what Mr. Zinke will do with respect to Grand Staircase, though a decision is expected as soon as Thursday. It's possible he could recommend no changes, suggest redrawing the monument's boundaries or even call for a full revocation, though the latter would be an uphill legal battle.

With a decision imminent, both sides are making their last-ditch cases. Opponents of the monument point out that federal data show that roughly 40 percent of the land sits atop recoverable energy reserves, potentially providing millions of dollars in royalty payments and hundreds of jobs for local Utah economies. A Utah Geological Survey report, heavily promoted by the GOP-led House Natural Resources Committee, found that the total value of energy mineral resources on the land is somewhere between \$223 billion and \$330 billion, with the vast majority of that coming from coal reserves.

At the other end of the spectrum, supporters say the monument has become such a tourist attraction that any potential changes would bring their own devastating effects. A recent study by Headwaters Economics found that tourism composes about 44 percent of all private employment in the areas around the monument, and that Utah's outdoor industry, of which Grand Staircase-Escalante is a major piece, pours more than \$12 billion into the state's economy each year.

Local business leaders say changes to the monument could crush their ability to make money off of tourism, and that the economic damage to Utah businesses would far outweigh any benefits associated with energy development in the area.



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“Families have literally invested in the continuance of our local national monument,” a coalition of area businesses wrote in a letter to Mr. Zinke this week. “As we emphasized in our public comments, shrinking the size of Grand Staircase-Escalante National Monument will hurt our businesses and destroy what our community has built over two decades.”

No one disputes the beauty of the specific attractions within the monument boundaries. It contains the “Grand Staircase” itself, a series of descending plateaus; the Kaiparwits Plateau, which contains a host of ancient fossils; and Canyons of the Escalante, a series of natural canyons.

But critics say the area, much like Bears Ears, also contains vast areas of nothingness that, while beautiful, contain no historic sites or artifacts that need to be protected under the Antiquities Act.

Sen. Orrin G. Hatch, Utah Republican and a chief opponent of the monument since its creation, says he favors a full revocation of both Grand Staircase and Bears Ears but will accept whatever final decision the administration makes.

“Sen. Hatch has stated that his top priority is ensuring that the people of Utah, particularly in San Juan, Kane, and Garfield Counties have a voice in the process of both protecting and managing these lands, which Secretary Zinke’s review has made possible,” Matt Whitlock, a spokesman for the senator, said in a statement. “While he has urged the Trump administration to fully rescind these monuments, he will accept whatever the Secretary recommends to the President at the end of a fair and thorough review process.”

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#### 4. Bishop seeks full investigative report on BLM agent

*The Deseret News, Aug. 23 | Amy Joi O'Donoghue*

SALT LAKE CITY — Rep. Rob Bishop, R-Utah, wants the names and other redacted information revealed in an ethics probe of the Bureau of Land Management law enforcement supervisory agent once in charge of Utah and Nevada.

Details of the more than yearlong probe by the Interior Department's Office of Inspector General were released in a February report, but key names were blacked out — including that of Dan Love, who the Deseret News confirmed was at the center of the probe.



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In the report, the inspector general substantiated that ethics breaches had occurred and noted a number of alleged activities regarding Love, including accusations that the supervisory agent:

- Used his position to secure preferential treatment for his family during the 2015 Burning Man event in Nevada, such as using federal law enforcement officers as personal escorts, using a BLM vehicle to transport his girlfriend, and allowing her to share overnight lodging with him.
- Engaged in instances of threatened retaliatory behavior, including telling one woman she better do damage control, and "if you don't side with me, grenades are going to go off, and you'll get hit."

Bishop asked for the full report by no later than noon Thursday, wanting the information "concerning serious misconduct by a senior Bureau of Land Management law enforcement manager."

At the time the February report was released, the national office released a statement acknowledging the allegations were being taken seriously but indicating that no additional information would be revealed because it was an internal personnel matter.

The Office of Inspector General, which is tasked with independent oversight and accountability of the Interior Department, launched the investigation in September 2015 based on a pair of anonymous complaints.

Love has long been at the center of multiple complaints by rural Utah sheriff's offices, alleging that while at the helm of law enforcement agents for the BLM, the agent was dismissive and uncooperative.

A contingent of rural county commissioners and sheriff's officials traveled to Washington, D.C., to complain of the souring relationships and ask for the agent's removal.

In addition to leading a controversial artifacts trafficking raid in the Blanding area, Love was involved in the armed standoff on the Utah-Nevada border with the Cliven Bundy family over unpaid grazing fees.

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#### **5. Commentary: Zinke leaves San Juan County in economic limbo**

*The Salt Lake Tribune, Aug. 24 | Nazz Kurth*

Petzl makes climbing equipment that is used around the world to reach the most inaccessible places, both by professionals and by those who enjoy the great outdoors. One of the most famous climbing areas in the world is right here in Utah: Indian Creek.

Here at Petzl America we were thrilled to learn that Indian Creek would be included in the Bears Ears National Monument, because we see this area as worthy of protection, not only for our customers from around the world, but also for the native people of Utah and the residents of San Juan County.

When the Bears Ears National Monument was designated, the Departments of Interior and Agriculture, in partnership with the Bears Ears Commission made up of Navajo, Hopi, Ute and Zuni tribal representatives, were directed to develop a management plan for San Juan County's new monument.

Normally, developing a management plan for a national monument is a great opportunity for a local community to plan for its future, especially for a place like San Juan County, the poorest county in Utah with the fastest growing population. The planning process provides a platform for input from all stakeholders regarding how the public land inside the monument will be managed.

Which sites are appropriate for sharing with the public? Which sites might not be? How can local concerns from other land owners near by be addressed? How will increased visitation affect local communities? The land management planning process gives communities the chance to take charge of their future and shape economic development plans that are right for them.

In the history of our national parks and monuments there has often been disagreement and concern from local communities when these special places are protected, and of course here in Utah these issues have been front and center. Yet in nearly every place lucky enough to have a designation, these concerns have been addressed through the management planning process, and no National Monuments or Parks have ever been eliminated or rolled back — because once the issues have been addressed, these designations become important economic drivers for their home regions.



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But instead of getting on with sorting out the issues in the Bears Ears, President Trump has left San Juan County in a kind of economic limbo, by ordering a review of all monuments over 100,000 acres that were established since 1996, and demanding an expedited review of the Bears Ears.

Interior Secretary Ryan Zinke has weighed in, adding to San Juan County's economic uncertainty by issuing an "interim report" — following a selective and cursory public review of Bears Ears — recommending that the monument be shrunk and that Congress take up legislation to create National Recreation and Conservation Areas. Zinke is ignoring the painstaking three-year Public Land Initiative that recently failed trying to do just that. There is no reason to think that Congress can succeed this time.

Zinke's recommendations did not identify where, exactly, the shrunken monument would remain and offered no assurances that a wildly dysfunctional U.S. Congress could pass legislation to bring much-needed protections to the world class cultural resources and recreation opportunities in the Bears Ears. Meanwhile, San Juan County waits in the twilight zone for the other shoe to drop: a final report from Zinke is due Thursday.

The reality is that the proclamation designating the Bears Ears National Monument is the law of the land and it is not up to the discretion of the Interior and Agriculture Departments to delay the required management plan for any reason. Without the plan, none of the issues affecting the county's future can be resolved. If President Trump and Secretary Zinke truly want improved economic conditions and more jobs for San Juan County, the answer is readily available, commit the resources needed to move forward with a management plan for the Bears Ears National Monument.

*Nazz Kurth is president of Petzl America, and is based in Salt Lake City.*

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#### **6. Parts of National Monument in Utah May Lose Federal Protections**

*The New York Times, Aug. 24 | Julie Turkewitz, Lisa Friedman*

BEARS EARS NATIONAL MONUMENT, Utah — Parts of this sprawling region of red-rock canyons, towering mesas and ancient Native American sites in southeastern Utah could lose their



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strict federal protection as a national monument, under a recommendation that Interior Secretary Ryan Zinke is expected to issue on Thursday.

Shrinking the Bears Ears National Monument and reopening much of the land for possible mining and drilling would be widely seen as a direct blow to former President Barack Obama's environmental legacy, and the first major test of a century-old conservation law.

In April, President Trump ordered a sweeping review of 27 national monuments that were designated or expanded in recent years under the Antiquities Act. Along with Bears Ears, the review included monuments like Organ Mountains-Desert Peaks in New Mexico, Mojave Trails in California and Katahdin Woods and Waters in Maine. National monuments are strictly protected from new development in much the same way the national parks are.

Native American tribes in the Southwest, who lobbied for years to get the Bears Ears region designated a national monument, are expected to fight any move to reduce its size. Charles Wilkinson, a professor of public land law and adviser to the tribes, called Mr. Zinke's expected decision "an attack on a significant part of the foundation of American conservation law" and said, "We have our complaint already ready to file."

Outdoor recreation and environmental groups are also expected to fight to preserve the monuments.

Mr. Trump said in April that the goal of the review was to end "another egregious use of federal power" and give the states more say in how public lands are used.

Mike Noel, a Utah state representative, said that reducing or eliminating Bears Ears would be "a victory for our state." Federal management of land in his state had constrained drilling, mining and grazing, he said, adding that Washington had no business setting aside so much land for the strict protection that monument status affords.

"When you turn the management over to the tree-huggers, the bird and bunny lovers and the rock lickers, you turn your heritage over," Mr. Noel said.

The vast majority of the territory that Mr. Trump targeted for review — about 553 million acres of land and sea in all — was given monument protection by Mr. Obama, who set aside more



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such territory than any of his predecessors. But the review also included areas designated by Presidents George W. Bush and Bill Clinton.

The Antiquities Act, signed into law in 1906 by President Theodore Roosevelt, gives presidents the power to designate national monuments that safeguard “historic landmarks, historic and prehistoric structures and other objects of historic or scientific interest.” Sweeping landscapes like the Canyons of the Ancients in Colorado and ocean areas like the Marianas Trench in the Pacific have been protected under the law, along with sites like the Statue of Liberty and parts of the Underground Railroad.

Past presidents have altered the boundaries of national monuments before, including about 19 occasions when acreage was removed from them, according to federal data.

Those reductions were often small, and were sometimes offset by enlargements elsewhere. The largest reduction by far came in 1915 when President Woodrow Wilson cut 313,280 acres from the monument in Washington State that later became Olympic National Park.

Scholars are divided over whether the Antiquities Act authorizes a president to do that. But none of the previous reductions were contested in court, Mr. Wilkinson said.

Monument designations have been particularly contentious in Utah since 1996, when President Clinton made a surprise announcement that he was putting aside 1.9 million acres in the state for the Grand Staircase-Escalante National Monument. The designation halted a proposed coal project, the Smoky Hollow mine. Residents of Kane County, who had been expecting the mine to pump money and jobs into the region, gathered at a local high school after the announcement to cry, releasing bouquets of black balloons.

For some in southern Utah, it was a wound that never healed. Twenty years later, when Mr. Obama declared Bears Ears a national monument in the final weeks of his presidency, the step divided the region.

Supporters of the monument, many of them Navajo, saw its creation as a victory for indigenous rights. But opponents, many of them descended from Mormon settlers, said it would strangle the region economically by barring future mining and drilling.

It is not clear, however, that any mining or energy companies would rush in if Bears Ears protections are removed. A study by the left-leaning Center for American Progress found that the



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land did not offer especially strong prospects for mineral resources — mostly uranium — or oil or gas.

“The area has slightly above-average resource potential, but there are no signs that it’s a big play,” said Matt Lee-Ashley, a spokesman for the center.

The Antiquities Act limits monument designations to the “smallest area compatible with proper care and management of the objects to be protected,” a requirement that many conservative lawmakers have accused presidents of ignoring.

Mr. Zinke, in announcing the review, called it “long overdue” and pointed out that the average size of national monuments had grown over the years from 442 acres to more than a million.

During the review process, Mr. Zinke visited eight of the monuments on the list and met with local officials, business leaders and members of Native American tribes. He also opened an online forum for comments, and announced that no changes would be recommended for six other monuments. But environmental groups criticized the process, likening it to the television show “Survivor,” announcing here and there which monuments were deemed safe.

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#### **7. Zinke won't eliminate any national monuments**

*Washington Post, Aug. 24 | Matthew Brown and Brady McCombs, AP*

BILLINGS, Mont. — Interior Secretary Ryan Zinke said he's recommending that none of 27 national monuments carved from wilderness and ocean and under review by the Trump administration be eliminated.

But there would be changes to a “handful,” he said.

Zinke told The Associated Press that unspecified boundary adjustments for some monuments designated over the past four decades will be included in the recommendations he planned to give President Donald Trump on Thursday. None of the sites would revert to new ownership, he said, while public access for uses such as hunting, fishing or grazing would be maintained or restored.



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He also spoke of protecting tribal interests and historical land grants, pointing to monuments in New Mexico, where Hispanic ranchers have opposed two monuments proclaimed by President Barack Obama.

Zinke declined to say whether portions of the monuments would be opened up to oil and gas drilling, mining, logging and other industries for which Trump has advocated.

There was no immediate comment from the White House.

If Trump adopts the recommendations, it would quiet some of the worst fears of his opponents, who warned that vast public lands and marine areas could be lost to states or private interests.

But significant reductions in the size of the monuments, especially those created by Obama, would mark the latest in a string of actions where Trump has sought to erode his Democratic predecessor's legacy.

"There's an expectation we need to look out 100 years from now to keep the public land experience alive in this country," Zinke said. "You can protect the monument by keeping public access to traditional uses."

The recommendations cap an unprecedented four-month review based on a belief that the century-old Antiquities Act had been misused by past presidents to create oversized monuments that hinder energy development, grazing and other uses.

The review raised alarm among conservationists who said protections could be lost for areas that are home to ancient cliff dwellings, towering sequoia trees, deep canyons and ocean habitats. They've vowed to file lawsuits if Trump attempts any changes that would reduce the size of monuments or rescind their designations.

Zinke had previously announced that no changes would be made at six national monuments — in Montana, Colorado, Idaho, California, Arizona and Washington. He's also said that Bears Ears monument in Utah should be downsized.

The former Montana congressman declined to reveal specifics on individual sites in an interview with the AP. He offered no further details on his recommendations for the two New Mexico monuments — Organ Mountains-Desert Peaks National Monument and the Rio Grande del Norte National Monument.



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He also struck back against conservationists who had warned of impending mass sell-offs of public lands by the Trump administration.

"I've heard this narrative that somehow the land is going to be sold or transferred," Zinke said. "That narrative is patently false and shameful. The land was public before and it will be public after."

National monument designations add protections for lands revered for their natural beauty and historical significance with the goal of preserving them for future generations. The restrictions aren't as stringent as national parks, but some policies include limits on mining, timber cutting and recreational activities such as riding off-road vehicles.

The monuments under review were designated by four presidents over the last two decades. Several are about the size of the state of Delaware, including Mojave Trails in California, Grand-Staircase Escalante in Utah and Bears Ears, which is on sacred tribal land.

Many national monuments were later declared national parks. Among them were Zion National Park in Utah and Grand Canyon National Park in Arizona.

No other president has tried to eliminate a monument, but some have trimmed and redrawn boundaries 18 times, according to the National Park Service.

Many times, presidents reduced monuments only slightly, like when Franklin Roosevelt removed about 52 acres from Arizona's Wupatki National Monument in 1941 to make way for a dam. But occasionally the changes were drastic, like President Woodrow Wilson's move in 1915 to cut Mount Olympus National Monument roughly in half to open more land for logging.

Environmental groups said the 1906 Antiquities Act is intended to shield significant historical and archaeological sites, and that it allows presidents to create the monuments, but only gives Congress the power to modify them.

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#### **8. Bears Ears, Grand-Staircase won't be eliminated, Zinke says, but they may be shrunk**

*The Salt Lake Tribune, Aug. 24 | Brian Maffly*

After a four-month review, Interior Secretary Ryan Zinke is recommending reductions to “a handful” of national monuments, including possibly Utah’s Bears Ears and Grand Staircase-Escalante — but no outright erasing of any of the 27 public land preserves under scrutiny.

Zinke submitted his recommendations to President Donald Trump Thursday, but in an interview with The Associated Press, the former Montana congressman declined to identify boundary changes he is seeking for some of the large monuments designated by Barack Obama and other past presidents under the Antiquities Act.

Nor did Zinke identify which monuments he proposes to shrink, although he has previously called for “right-sizing” the 1.3-million-acre Bears Ears in southeastern Utah and has named six monuments in other Western states that will remain unchanged.

Just when those details are released will up to the White House, and that may take awhile, according to Rep. Rob Bishop, R-Utah.

It is appropriate to give the Trump administration time to weigh Zinke’s report before divulging its conclusions and making a public statement, Bishop told reporters Thursday.

In announcing the national monument review in April, Trump echoed criticisms leveled by many Utah officials.

The president called the designations “a massive land grab” that “should never have happened,” offering a clue that he intended to wipe out some of Obama’s legacy by redrawing or undoing some of the large monuments he set aside.

“No President should use the authority under the Antiquities Act to restrict public access, prevent hunting and fishing, burden private land, or eliminate traditional land uses, unless such action is needed to protect the object,” Zinke said Thursday in a prepared statement.

“The recommendations I sent to the president on national monuments will maintain federal ownership of all federal land and protect the land under federal environmental regulations, and



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also provide a much needed change for the local communities who border and rely on these lands for hunting and fishing, economic development, traditional uses, and recreation," Zinke said.

Without providing details on the potential changes, Utah Sen. Orrin Hatch on Thursday denounced the Utah monuments as "a prime example of Antiquities Act abuse," wielded by presidents to hand out political favors rather than protect objects of historic and scientific interest under the narrow confines intended by the 1906 Antiquities Act.

"What we have seen throughout the monument review process is a concerted effort to give the people of Utah a voice in the protection of Utah lands," Hatch said. "I appreciate Secretary Zinke's thorough and thoughtful review, and the efforts he made to ensure relevant stakeholders, particularly those in San Juan, Kane, and Garfield Counties, had an opportunity to be heard."

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### 9. **BLM: Special agent tried to conceal misuse of artifacts — IG**

*E&E News, Aug. 24 | Scott Streater*

A senior Bureau of Land Management law enforcement official who was found to have previously violated federal ethics rules at the Burning Man festival and clashed with congressional leaders is the subject of a new inspector general report that found he mishandled ancient stones being held as evidence in a criminal probe.

Dan Love, who also oversaw security during BLM's failed 2014 roundup of Nevada rancher Cliven Bundy's illegally grazing cattle, is the senior law enforcement manager at the heart of the new IG investigation, House Natural Resources Chairman Rob Bishop (R-Utah) confirmed in a statement.

The Interior IG today posted on its website a copy of the [final report](#) of a monthslong probe that does not name the senior law enforcement manager whom investigators say removed moqui marbles from evidence storage and gave them away "as gifts to several people."

But Bishop, in a [letter](#) sent yesterday to Interior Deputy IG Mary Kendall, requested an unredacted copy of the report be sent today to the committee.



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The report says that Love gave three marbles to Sal Lauro, BLM's former director of law enforcement and security and Love's boss at the time. Lauro told investigators he assumed that Love had gotten the marbles from a university and that they were not evidence in the criminal probe.

Lauro was one of a handful of BLM Senior Executive Service officials transferred out of BLM in June to the Fish and Wildlife Service as part of an ongoing Interior reorganization effort.

In addition, the IG report confirmed that Love "instructed his subordinate," who is not named, to review his emails "and to 'scrub' any messages that could harm the senior manager or any in which he used demeaning or derogatory language" in a separate employment-related matter, the report says.

The Interior IG presented its findings to the U.S. Attorney General's Office in Utah, "which declined to prosecute this case," the report says.

The report has also been sent to the Interior Department "for any action deemed appropriate," but it's not clear if any action has or will be taken. A BLM spokeswoman said Love remains an agency employee but said she could not provide more information.

Bishop said it's time for Interior to take action.

"After numerous reports substantiating serious allegations of misconduct including the destruction of federal records, defiance of congressional document requests and misuse of ancient artifacts under investigation as office decor, I expect Interior to hold Dan Love accountable," he said in a statement.

"I look forward to seeing how this Administration responds to the unethical behavior uncovered by the report," he added. "We must take steps to restore trust in federal law enforcement officers and hold employees accountable for their mismanagement of our taxpayer resources."

For his part, Love declined to participate in the IG investigation, according to the report, which states "a BLM official informed us that the senior manager's attorney said he was not able to participate in an interview."

Today's final document follows an IG's advisory summarizing the investigation's findings sent last month to William Woody, BLM's director of law enforcement and security.



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The advisory was issued "to alert" Woody that the unnamed senior law enforcement manager allowed co-workers to take moqui marbles being held as evidence in the criminal case and to "display" them on their work desks. The manager also gave away some of the ancient stones to a private contractor as a "reward" for good work, it said (Greenwire, Aug. 1).

Woody told E&E News last month that the IG's advisory concerned him, saying there "is simply no excuse for mishandling evidence."

The moqui marbles — compacted sandstone balls millions of years old that are primarily found in Utah, as well as parts of Arizona, Colorado and Nevada — had been "taken illegally" by poachers from an undisclosed park site and later seized by BLM as part of a criminal investigation into their theft, the report says.

The IG's report is just the latest controversy involving Love.

Love was the target of an IG probe that earlier this year found he violated federal ethics laws by abusing his position to obtain special access to the Burning Man festival for his family and pressured subordinates to hire his friend (E&E News PM, Jan. 30).

Though the IG's report in January did not identify the supervisory agent at issue, E&E News later confirmed it was Love (Greenwire, Feb. 2).

Among other things, the IG found that during the investigation, the supervisor later attempted to influence his employees and learn details of their interviews with investigators.

He told one contracting officer that "if you're not on my ship you're going to sink ... so I suggest you get on my ship," the IG report said.

And a BLM state ranger "said that the Supervisory Agent told him that saying 'I don't recall' was a valid answer," the report said. The same ranger said the supervisor called him after he spoke with the IG and asked, "Do I still have a job or did you get me fired?"

But even as the IG's investigation into the Burning Man allegations kicked off in September 2015, BLM promoted Love to special agent in charge of security, protection and intelligence (Greenwire, May 24, 2016).



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Love, who had clashed with sheriff's deputies in Utah, had drawn the scorn of former House Oversight and Government Reform Chairman Jason Chaffetz (R-Utah).

The final IG report released today also addresses a request by Chaffetz and Rep. Blake Farenthold (R-Texas) to Kendall in February asking her office to "investigate the specific allegations raised in your interviews of destruction of federal records, witness tampering, and obstruction of a congressional investigation" (E&E News PM, Feb. 17).

The IG report says investigators found "no evidence" that Love or anyone at BLM directed documents be deleted that were responsive to a congressional request for information.

**'Shh! Don't say anything'**

But the IG investigation into the handling of the moqui marbles revealed a litany of ethical problems.

The IG initiated the investigation in November 2016 on a tip from an official in the Office of Law Enforcement and Security, the report says.

BLM law enforcement officers in 2012 "seized thousands of moqui marbles" that allegedly had been "collected illegally from a national park." The marbles were eventually stored in an evidence room at BLM Utah's state office in Salt Lake City.

A University of Utah professor who studied the seized marbles in 2013 concluded they did come from the unnamed national park and that the stones had "a total retail value of \$160,000 to \$520,000," the report says.

In April 2016, a witness identified in the report as "the senior manager's subordinate" told investigators that he and two other officials — a budget analyst and a contract specialist in the Office of Law Enforcement and Security — were in the evidence room counting the moqui marbles, which were being stored in dozens of 5-gallon buckets. Love told them "they could each take a marble from the evidence room and display them on their desks."

Love's subordinate said he did not take a marble but told investigators "he later saw marbles on the desks of the other two employees. He was certain that the marbles had come from the evidence room and stated, 'They were clearly evidence,'" the report says.



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The two BLM law enforcement officials confirmed to investigators "they each took a marble from the evidence room and displayed them in their offices." But the budget analyst told investigators "she had believed it was all right to take a marble because she had seen marbles on display in the senior manager's office, and the contract specialist said she had assumed it was all right because a senior law enforcement manager said it was."

The BLM subordinate acknowledged that he understood the marbles "were evidence in an ongoing criminal prosecution." But he later removed more marbles at Love's request and "did not question the instructions because the senior manager was a law enforcement official and was 'scary,'" the report says.

Love also gave away several marbles to a contractor working on a new evidence room and offices, it says. The budget analyst told investigators that one day the contractor "excitedly showed her two or three marbles he was holding and said to her, 'Hey, I'm not supposed to say anything, but ... look at what [the senior manager] gave me.'"

The budget analyst asked Love a couple of days later whether he had given the marbles to the contractor. "She said he responded, 'Shh! Don't say anything. If you say it too loud, [a BLM state ranger whose office was nearby] will hear, and he'll call OIG,'" the report says.

The contractor told investigators that Love gave him "five or six moqui marbles" but that "he was later contacted by a BLM special agent, who had him return the marbles."

The IG report says investigators found a number of other BLM law enforcement officials and agency employees had moqui marbles "that may have originally been seized as evidence."

A BLM state ranger told investigators "that other employees in the office had marbles and the senior manager was 'giving them out like candy.'"

#### **Deleted emails**

The IG investigators also found that Love "violated federal information security policy and DOI rules of behavior" in response to official requests for documentation on a separate "employment-related matter."



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The report says Love's subordinate, on at least two occasions in 2015, was instructed by Love to review emails on his computer and to delete unflattering emails in two document requests in 2015.

The contract specialist also told investigators that Love instructed her and the subordinate "to go through the senior manager's email account and flag emails 'that could get him [the senior manager] in trouble,'" the report says.

The investigators wanted to search two government-owned MacBook computers that had been issued to Love, but they noted that Love "was unable to locate either of the MacBooks," the report says.

The budget analyst and contract specialist who earlier were allowed to take moqui marbles out of the evidence room, as well as another BLM special agent, told investigators that Love "had stated to them on several occasions that the MacBook he used would 'disappear' or be reported as broken if 'things ever get bad' or if anyone 'comes after' him or his job."

The IG report states that "BLM reviewed the matter and found in early 2017 that both of the MacBooks assigned to the senior manager had been lost due to his negligence. The BLM made multiple attempts to contact the senior manager to return the MacBooks, but he did not respond. Contact attempts sent to him via certified mail were returned unclaimed."

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#### E&E/NATIONAL NEWS – TOP STORIES

##### **1. Prosecutors to retry Bundy Ranch standoff defendants for 3rd time**

*The Republic | azcentral.com, Aug. 22 | Robert Anglen*

Federal prosecutors who didn't succeed in the Bundy Ranch standoff trial will retry and retry again.

The U.S. Attorney's Office in Las Vegas confirmed Wednesday it will go back to court for the third time in an attempt to convict two men accused of taking up arms against federal agents.



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Less than 24 hours earlier, a jury had acquitted two standoff defendants and dismissed the most serious charges against two others. Now federal prosecutors say they will retry the men next month on outstanding weapons and assault charges.

The move pushes back the trials for 11 other defendants in the 2014 Bundy Ranch standoff, including Nevada rancher Cliven Bundy and his sons Ammon and Ryan Bundy, who have spent 18 months in prison while awaiting their court date.

O. Scott Drexler and Eric Parker, both of Idaho, were released from prison Tuesday night after a jury acquitted them of conspiracy and extortion, which were the key elements of the government's case.

But they found out Wednesday they have been ordered back to court Sept. 25 to face the charges on which the jury deadlocked.

"Surprised? No. Disappointed? Yes," said Parker's lawyer, Jess Marchese. "It's clear at this point the prosecution is taking this personally now."

Marchese said Acting Nevada U.S. Attorney Steven Myhre twice called Parker a coward during a court hearing Wednesday.

Marchese said it was unprofessional and unnecessary. "This is a business," he said. "And there's no need for emotion in a business."

Parker and Drexler face one count each of assaulting a federal officer and carrying a firearm in the commission of a crime. Parker faces two additional counts of using a firearm to threaten a federal officer.

#### **Jurors twice reject government claims**

Jurors dealt government prosecutors their second stinging defeat in the case when, after four days of deliberations, they returned no guilty verdicts against four defendants.

Richard Lovelien of Oklahoma and Steven Stewart of Idaho were acquitted on all counts and walked out of court Tuesday night free after spending 18 months in prison.



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This marks the second time a jury failed to convict the defendants on charges related to the standoff, which pitted armed ranchers and militia members against Bureau of Land Management agents in a dusty wash below Interstate 15 about 70 miles north of Las Vegas.

A jury in April deadlocked on charges against the four men. It convicted two other defendants on multiple counts. But it could not agree on conspiracy charges against any of the six.

The men were being retried on conspiracy, extortion, assault and obstruction charges for helping rancher Cliven Bundy fend off a government roundup of his cattle in what became known as the Battle of Bunkerville.

The government launched its second prosecution last month. The case climaxed Aug. 11 when U.S. District Court Judge Gloria Navarro abruptly ended court by ordering Parker off the stand and striking his testimony from the record as jurors watched.

The defendant was attempting to tell jurors what he saw during the standoff over a barrage of objections from prosecutors. Navarro ruled Parker violated court orders by discussing prohibited topics. Parker returned to the defense table and started crying while Navarro dismissed the jurors.

Marchese said jurors told him Tuesday the incident was a factor in their verdicts. He said jurors were sympathetic to the defendants and their inability to mount a cogent defense in light of restrictions in talking about why they participated in the standoff and what they were thinking while they were there.

The case went to the jury Aug. 15 after lawyers for all four defendants waived closing arguments as part of a protest about court proceedings and restrictive legal rulings.

#### **Judge's rulings limit defense**

Navarro's rulings, aimed at trying to avoid jury nullification, severely limited defense arguments. Jury nullification occurs when a jury returns a verdict based on its shared belief rather than on the evidence in a case.

Navarro barred defendants from discussing why they traveled thousands of miles to join protesters at the Bundy Ranch. She did not allow them to testify about perceived abuses by federal authorities during the cattle roundup that might have motivated them to participate.



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Navarro also restricted defendants from raising constitutional arguments, or mounting any defense based on their First Amendment rights to free speech and their Second Amendment rights to bear arms. In her rulings, Navarro said those were not applicable arguments in the case.

Federal officials did not face the same restrictions. To show defendants were part of a conspiracy, they referenced events that happened months, or years, after the standoff.

Federal prosecutors, led by Myhre, argued in court the case wasn't about the First or Second Amendments; that the Constitution doesn't give people the right to threaten federal officers.

They said the Bundys' dispute with the BLM was adjudicated and the court issued a lawful order to round up the cattle. When ranchers and the militia conspired to force the release of the cattle, they broke the law, prosecutors argued.

Dozens of federal state and local law-enforcement officers testified in the retrial, saying they were outnumbered and outgunned in the wash and feared for their lives.

Jurors, however, heard from no defense witnesses. Drexler took the stand and delivered the only defense testimony jurors were allowed to consider.

He testified that even though he brought weapons to the standoff, he did not intend to threaten or assault law-enforcement officers.

#### **Remaining defendants aimed weapons**

All four defendants in the retrial admitted bringing guns to the standoff. But pictures of Parker and Drexler aiming their weapons went viral.

An image of Parker has come to epitomize the 2014 protest. He is pictured lying prone on an overpass and sighting a long rifle at BLM agents in the wash below. The image galvanized the public and brought international awareness to the feud over public lands and the potential consequences of such a dispute.

The Bundy Ranch standoff is one of the most high-profile land-use cases in modern Western history, pitting cattle ranchers, anti-government protesters and militia members against the Bureau of Land Management.



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For decades, the BLM repeatedly ordered Bundy to remove his cattle from federal lands and in 2014 obtained a court order to seize his cattle as payment for more than \$1 million in unpaid grazing fees.

Hundreds of supporters from every state in the union, including members of several militia groups, converged on his ranch about 70 miles north of Las Vegas.

The standoff was hailed as a victory by militia members. Ammon and Ryan Bundy cited their success at Bundy Ranch in their run-up to the siege of an Oregon wildlife refuge in 2016, also in protest of BLM policies. An Oregon federal jury acquitted Ammon, Ryan and five others in October.

No arrests were made in the Bundy Ranch case until after the Oregon siege ended.

Last year, the government charged 19 people for their roles in the Nevada standoff. Two men took plea deals. Trials for the remaining defendants were broken into three tiers based on their alleged levels of culpability in the standoff.

Although defendants in the first trial and the retrial were considered the least culpable, all 17 defendants face the same charges. Those convicted could spend the rest of their lives in prison.

The second trial, which will include Cliven, Ammon and Ryan Bundy, who are considered ringleaders, was supposed to start 30 days after the conclusion of the first trial. But the start date has been delayed because of the retrials.

Marchese said Wednesday the remaining 11 defendants remain incarcerated and the delays are wearing on them.

"Those guys want their day in court," he said.

Parker plans on returning to Idaho and seeing his family.

"He wants to be a dad," Marchese said. "He wants to see his kids ... and to be a father."

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#### **2. Tribal coalition joins blitz to save national monument areas**

*The Durango Herald, Aug. 23 | Brady McCombs, AP*

The deadline for Zinke to announce his recommendations is Thursday following a four-month review of 27 sites ordered by President Donald Trump.

A tribal coalition that pushed for the Bears Ears National Monument in Utah, designated by President Barack Obama in December, unveiled a new webpage Tuesday that explains the cultural importance of lands considered sacred to them. They also posted a letter sent to Trump telling him that part of “making American great again” is honoring tribal history and rights.

“At a time when the United States feels anything but united under the shadow of Charlottesville, Virginia, please hear our voices,” wrote Willie Grayeyes, chairman of the coalition. “These sacred lands have held our song, our stories and our prayers since time beyond memory, and these lands will continue to hold the promise of our future.”

The outdoor recreation industry has hammered home its message that peeling back protections on areas where its customers hike, bike and camp could prevent future generations from enjoying the sites.

In addition, the Wilderness Society has created a parody website featuring Trump and Zinke selling luxury real estate at the sites.

Groups that want to see the areas reduced have been less vociferous, pleading their cases on social media and working behind the scenes to lobby federal officials.

They say past presidents have misused a century-old law to create monuments that are too large and stop energy development, grazing, mining and other uses.

Stan Summers, a Utah county commissioner who chairs a group that advocates for the multi-use of public lands, said outdoor recreation companies are peddling lies and misconceptions when they say local officials want to bulldoze monument lands.

Summers said residents treasure the lands that comprise Bears Ears and the Grand Staircase-Escalante monuments in Utah, but don’t want to close the areas to new oil drilling and mining that produce good jobs.



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“We want to tend this area like a garden instead of a museum,” he said

The review includes sweeping sites mostly in the West that are home to ancient cliff dwellings, towering sequoia trees, deep canyons or ocean habitats roamed by seals, whales and sea turtles.

Zinke has already removed six areas in Montana, Colorado, Idaho and Washington from consideration for changes. He also said Bears Ears on tribal land in Utah should be downsized.

Zinke on Thursday is scheduled to be in his home state of Montana with Agriculture Secretary Sonny Perdue for a briefing on the state’s raging wildfires. No announcement on the fate of the monuments is planned during the visit, said Zinke spokeswoman Heather Swift.

Environmental groups said the 1906 Antiquities Act is intended to shield significant historical and archaeological sites, and that it allows presidents to create the monuments but only gives Congress the power to modify them.

They have vowed to file lawsuits if Trump attempts to rescind or reduce the monument designations.

No other president has tried to eliminate a monument, but they have trimmed and redrawn boundaries 18 times, according to the National Park Service.

REI and Patagonia have joined a group of 350 outdoor companies, including The North Face, YETI Coolers and Orvis, in signing a letter sent last week to Zinke by the Outdoor Industry Association.

“It’s an American right to roam in our public lands,” the letter reads. “As business leaders, we simply ask that your final report remain true to the Teddy Roosevelt values we share with you – to maintain the national treasures presidents of both parties have protected.”

Patagonia recently ran a TV ad in Montana and Utah with company founder Yvon Chouinard fishing and declaring, “Our business is built on having wild places” and warning that public lands are under the greatest threat ever.

Led by U.S. Sen. Martin Heinrich, a Democrat from New Mexico, monument supporters plan a rally Thursday at an REI store in Albuquerque.



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The Wilderness Society website also features a photo of ancient ruins at Bears Ears National Monument in Utah and the words, "Developer ready." Each monument was given a fictional price tag, such as \$932 million for Organ Mountains-Desert Peaks National Monument in New Mexico.

In a description of Katahdin Woods and Waters National Monument in Maine, the website says: "This is the chance for someone to claim a little piece of that offbeat New England charm for themselves and leave hikers, birdwatchers, snowshoers and hunters on the outside, looking in!"

Proponents of downsizing the monuments say state governments are better suited to make management decisions that would ensure federal lands are used for a mix of uses.

"The only reason there is roads in some of these places is because of the mining and the oil and the gravel pits," Summers said.

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### **3. Environmental groups says industry had undue influence on sage grouse review**

*The Casper Star Tribune, Aug. 24 | Heather Richards*

Environmental groups are crying foul after a letter from an oil and gas advocacy group to Interior Secretary Ryan Zinke surfaced indicating energy may have played a significant role in the department's recent, and controversial, sage grouse decision.

In the July letter, which the industry group also provided to the Star-Tribune, Western Energy Alliance recommended 15 changes to federal sage grouse conservation plans to make it easier for industry firms to do business in the bird's habitat.

Earlier this month, at Zinke's request, a panel of sage grouse experts turned in a review of federal conservation plans. It included 13 of WEA's suggestions.

The review itself was controversial, and Zinke's comments about how to deem sage grouse conservation successful and whether captive breeding the bird could enhance the population had biologists across the West up in arms. Gov. Matt Mead also weighed in on the review, admonishing



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caution to the new secretary when it came to managing the bird. Wholesale changes to the plans were unnecessary, the governor said.

Sage grouse narrowly missed an endangered species listing two years ago, when state and federal management plans were deemed sufficient to conserve the grouse without a listing.

The bird is an iconic species in the West, but developing strategies to conserve the bird's habitat and protect the health of the energy industries that share the bird's stomping grounds in Wyoming has been a long, difficult process.

For some, the letter is proof that the oil and gas industry has found a backdoor to influence the Trump administration. The environmentalist group that obtained the letter, Western Values, filed a freedom of information request this week seeking all email collaboration between groups like Western Energy Alliance and federal officials at the Interior Department.

"We went through a long process to get where we are at (with federal protections for the grouse)," said Jayson O'Neill, with Western Values Project. "To have that thrown out the window, behind closed doors, we believe people have the right to see those documents and see how those decisions were made."

Others argue that industry is due a fair hand after the last presidency. The letter reveals nothing inappropriate, they say.

"Our letter was a simple summary," said Kathleen Sgamma, president of the Western Energy Alliance. "Anybody can submit a letter to the DOI ... I write everything in case it's on the front page of the New York Times. It's nothing new. It's things we've said before many times."

The WEA has long been forthright in its stance that industry and sage grouse can co-exist, and that oil and gas companies were treated unfairly under previous president Barack Obama.

"The Obama Administration only listened to environmental groups, repeatedly ignored input from the states, from ranchers to energy developers," Sgamma said. "They took a very one-sided view of the sage grouse plans and I think the Trump Administration is trying to rectify that."



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Others in industry agree that there is room for improvement in the federal plans, but deny that industry has unfair influence in Washington.

"If we really have that much influence, I didn't know we did," said John Robitaille, vice president of the Petroleum Association of Wyoming, upon learning that he was named in a freedom of information request. "I think they are mistaken."

PAW did make some of their concerns known to the DOI, but that was prior to the sage grouse review, or even any knowledge that there would be a sage grouse review, said Esther Wagner, vice president of public lands for the organization.

But others see the letter as just one sign among many that the federal approach to sage grouse conservation is being influenced by industry and politics.

It's corroborative of their influence," said Brian Rutledge, conservation policy and strategy adviser for the National Audubon Society.

Rutledge is a member of the sage grouse implementation team, a decade-long group established by the state of Wyoming. He's been central in the state's leadership of sage grouse conservation in the west.

Politics have changed that.

"Having been at the table for 12 years, to suddenly be on the outside whistling in the dark?" he said. "That's the way it was."

Rutledge and others have also pointed out that the Bureau of Land Management recently cited a presidential order to promote energy development when justifying a leasing for oil and gas development in sage grouse habitat.

There is a lingering uncertainty about how the bird will be managed and who's holding the reins.

"We are sort of left wondering where we are" Rutledge said.



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Industry is also looking for certainty, but many think it will come from changing the management plans not keeping them as they are.

“We think the interior really just needs to get on with the business of amending those sage grouse plans,” said Sgamma of the Western Energy Alliance. “They really need to bite the bullet and start the process.”

In an email response requesting comment for this story, a spokeswoman for the Department of the Interior said, “the report was conducted in direct consultation with multiple states.”

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#### 4. Interior overhauls sage grouse conservation

*High Country News, Aug. 24 | Tay Wiles*

On a windy morning in September 2015, Interior Secretary Sally Jewell stood at a podium on a patch of scruffy earth at Colorado’s Rocky Mountain Arsenal National Wildlife Refuge to announce that the greater sage grouse would not need federal Endangered Species Act protection after all. “What does this mean?” she said to an applauding crowd. “It means certainty. For states, for communities, for ranchers, for developers, who want to know where they can develop without compromising the health of the amazing sagebrush landscape.”

Now that certainty, or at least the prospect of it, has crumbled. Ninety-eight federal land management plans across 10 Western states, announced in 2015, were a key factor in the government’s decision not to protect the iconic ground-dwelling bird. The plans and other state and private-land conservation measures provided a sufficient path to recovery without a listing, the Fish and Wildlife Service decided. But last month, President Donald Trump’s Interior Department sent those plans — and thus the decision not to list the grouse — back into uncertainty. Interior Secretary Ryan Zinke ordered a federal panel to review the plans over the summer, and now its recommendations open the door to overturning many of their core elements. Zinke has said he wants to give states more flexibility to manage their pieces of the vast sagebrush ecosystem as they see fit, including whether to allow more energy development.

“While the federal government has a responsibility under the Endangered Species Act to responsibly manage wildlife, destroying local communities and levying onerous regulations on the



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public lands that they rely on is no way to be a good neighbor,” Zinke said when he announced the review in June.

Conservationists see the recommendations as the first step in dismantling the plans, which took a decade of study and negotiations and were considered a massive, unprecedented collaboration between a variety of federal, state and local stakeholders. Ultimately, the sage grouse review signifies a pendulum swing in the West, toward extractive industry taking priority over the health of the sagebrush ecosystem that supports not just the grouse but hundreds of other species of wildlife and plants.

Zinke’s decision should come as no surprise, considering his longtime dedication to job growth through mineral and energy extraction. In his autobiography *American Commander: Serving a Country Worth Fighting For and Training the Brave Soldiers Who Lead the Way*, published last year, he writes: “What the BLM does know is that false tears for the sage grouse offer a very real way to arbitrarily restrict energy exploration activities.” His take on wildlife science also appears in the book. He writes: “It’s entirely possible that there are man-made reasons for the sage grouse’s population drop — if there has been a population drop at all, of course.” (The bird’s population, estimated to be 16 million in the 19th century, is now down to about 400,000, due to industrial development, wildfire and invasive species.) As early as March, rolling back sage grouse protections had reportedly made it to the top of a White House priority list.

Perhaps the most controversial element of Zinke’s sage grouse management vision is one that bucks scientific consensus. The former Montana congressman puts more emphasis on meeting population targets than on maintaining or improving sagebrush habitat. The August report, authored by representatives from the Bureau of Land Management, U.S. Geological Survey, and Fish and Wildlife Service, does not say that habitat management will be entirely abandoned. But the new emphasis on population targets has raised concern from some state officials. Wyoming Gov. Matt Mead, a Republican who co-led the Sage Grouse Task Force, a group of state and federal officials that helped create the 2015 plans, criticized this shift. “We still strongly believe that management for habitat, based upon what science tells us, is the best way to do it,” he says.

Most wildlife biologists agree that managing sage grouse primarily for population avoids addressing the underlying reasons for the bird’s decline. San Stiver, a biologist and the sagebrush initiative coordinator for the Western Association of Fish and Wildlife Agencies, says, “Although we use population objectives for lots of critters we manage, it’s more difficult and a little less



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useful to arrive at that for grouse, mainly because of large fluctuations in populations.” Stiver says population counts are an important part of grouse recovery, but getting accurate numbers can be difficult: “In some of our states, you can’t actually get to leks because of snow and mud, and it ends up being an extensive proposition to get people fielded to do the counts.” Zinke also suggested in his secretarial order that captive breeding be undertaken to augment numbers. Yet experts say breeding has not been successful in the past: It’s expensive for the small number of grouse it produces and runs the risk of creating a genetically homogenous bird.

The Interior report also recommends changing habitat area designations, which limit development to protect the bird. (The plans take a tiered approach to habitat protection, with the greatest restrictions on “focal areas,” followed by “priority” habitat, and then “general.”) Brian Rutledge, director of the Audubon Society’s Sagebrush Ecosystem Initiative, points to the Montana Mountains in Nevada as one example of a priority habitat area where industry could benefit from changes to the sage grouse plans. “I know there are mining companies that want to develop there,” Rutledge said. “Now they have a much better shot at it.”

There’s a related recommendation in the report that could further weaken protection for priority habitat: removing U.S. Fish and Wildlife from its role in approving waivers for energy development in those zones. “To have FWS not have input in policing this whole operation puts BLM as the fox in charge of the henhouse,” Rutledge says.

Since the first rumors that Zinke was looking to rework the grouse plans this spring, most state officials have pushed to keep them intact. “Wholesale changes to the plans are likely not necessary at this time,” Mead and Colorado Gov. John Hickenlooper wrote in a letter to Zinke in May. Multiple sources close to the closed-door review process this summer told High Country News that state officials stood up for the years of work it took to complete the plans.

John Swartout, a senior policy advisor for Gov. Hickenlooper, says it’s “legitimate” that conservationists and others are worried the massive amount of work that went into the plans could be lost under the new administration. But Swartout sees a bright spot in Interior’s review: He interprets it as a kind of scoping document that outlines a number of alternatives to choose from. He says that in places like northwest Colorado’s Piceance Basin, management plans could use more flexibility: “Let’s say an operator was technically less than four miles from a lek, but they’re in a ravine and birds are at the top of a plateau, and you could drill that formation without disturbing the birds.” Plans in Colorado were originally created with wiggle room for that kind of situation, he says, but “when the plan went to Washington, D.C., some of that got taken out.”



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In Idaho, Gov. Butch Otter has been receptive to the federal review. The report notes that some of the state's 3.8 million acres of "sagebrush focal areas" could potentially be "removed" — welcome news to many, since Idaho is already suing over the focal areas that limit mining and grazing. Audubon's Rutledge says that getting rid of those areas "might remove some expansion space for the grouse but it wouldn't be terminally detrimental to the plans."

In Utah, Zinke's review is a boon for representatives who have long been critical of the Obama-era plans. The state has its own ongoing efforts to keep many federal lands open for grazing, off-road vehicle recreation and mineral and energy development. Utah representatives are working to weaken grouse protections from a number of directions. Republican Sen. Mike Lee introduced a rider to the National Defense Authorization Act that would prevent an endangered listing of the bird until at least 2027. Utah also has a \$2 million contract with the group Big Game Forever, which lobbies members of Congress to weaken protections for the species.

The oil and gas industry has been equally positive about Zinke's review. The American Petroleum Institute issued a statement: "We look forward to reviewing Interior's report, and continuing to work with the states and Department of the Interior to prioritize sage grouse conservation and local economic growth." Western Energy Alliance president Kathleen Sgamma couched her response to the plan in terms of states' rights, writing in an email that the report reveals "the Interior Department's new willingness to actually listen to states and localities instead of imposing one-size-fits-all plans." In a letter she sent to the Interior review team in July, Sgamma detailed the industry's qualms with the grouse plans. Almost every issue the letter raised, such as the "overly expansive" buffer zones around grouse breeding grounds, was later addressed in Interior's recommendations.

Zinke's vision for sagebrush country may have its day in the sun, enabled by a Republican-controlled Congress and a president whose executive orders show unwavering dedication to "energy dominance" through extraction on public lands. State and federal officials will continue to discuss the sage grouse plans in the coming months, with rounds of new recommendations expected this fall and again in early 2018. Swartout says it's important that the Sage Grouse Task Force is involved in any future reworking of the plans. "You're hearing from people on all sides that have concerns about what (the sage grouse review) means, but the truth is, we don't know what it means," he says. "What matters is what happens next."



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#### **5. COAL: DOE report blames natural gas for closures**

*E & E News, Aug. 24 | Hannah Northey and Peter Behr*

A long-awaited Energy Department staff report on electricity markets and reliability singles out natural gas — not renewables or environmental regulations — as the leading driver of coal plant closures in this decade, challenging the Trump administration's case for saving coal.

"The biggest contributor to coal and nuclear plant retirements has been the advantaged economics of natural gas-fired generation" fueled by the shale revolution, the report says.

The 187-page [report](#), which DOE released tonight, was ordered by Energy Secretary Rick Perry in April to review the closure of "baseload" coal and nuclear plants and "market-distorting effects of federal subsidies that boost one form of energy at the expense of others."

But the staff report assembled a more comprehensive review of challenges facing the U.S. power grid, from cheap natural gas to fast-moving new generating technologies. While electricity networks are performing reliably now, future resilience cannot be taken for granted, DOE said.

The preparation of the Trump administration's first comprehensive energy policy review lit fires under Washington's energy lobbies as those who feared or welcomed President Trump's thumping advocacy for the coal industry fired salvos at each other.

The final report, a month late in delivery, makes no definitive proposals. Its most political input is the absence of any mention of climate change. A DOE official today said the study was not meant to create a fuel fight.

Several key recommendations are directed at the Federal Energy Regulatory Commission, including the need to review whether electricity markets are delivering secure and resilient electric power as change disrupts grid networks. A DOE official said they discussed the report with FERC today, adding that the policy recommendations could be used to nudge the agency into reviewing market price rules that are designed to give consumers low power prices, but may not incentivize future reliability investment.



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The report questions whether coal and nuclear power plants should receive extra compensation because their fuel supplies are on-site but doesn't make an explicit recommendation on that point.

Perry himself sidestepped direct recommendations in a cover letter today, saying that it's "apparent that in today's competitive markets certain regulations and subsidies are having a large impact on the functioning of markets, and thereby challenging our power generation mix. It is important for policy makers to consider their intended and unintended effects."

DOE staff today said gas is by far the largest factor driving "baseload" plant closures, which Perry has defined as coal and nuclear units. But also in the mix is an anemic growth in demand for power, environmental regulations, and the operational and financial challenges some plant operators face when ramping up and down to accommodate a growing number of wind and solar units.

When asked why the report didn't have statutory and regulatory recommendations like the Quadrennial Energy Report issued by the Obama administration, officials said the staff report isn't an interagency exercise and they didn't want to trigger an Office of Management and Budget overview given the tight time frame.

The report, which also calls for revisiting nuclear regulations and permitting and siting requirements for new gas and power projects, will now be open for public comment, according to DOE.

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#### **6. NATIONAL MONUMENTS: Zinke pushes to shrink 'handful' of sites, no eliminations**

*E & E News, Aug. 24 | Jennifer Yachnin*

Interior Secretary Ryan Zinke today recommended that President Trump redraw the boundaries of a "handful" of national monuments but will not call for the elimination of any sites, he told the Associated Press.

Zinke, who is traveling in Montana to observe the state's wildfires, did not specify which of the 27 reviewed monuments he believes should be reduced. The Interior secretary previously



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proposed unspecified cuts to the 1.35-million-acre Bears Ears National Monument in southeast Utah.

"There's an expectation we need to look out 100 years from now to keep the public land experience alive in this country," Zinke told the AP. "You can protect the monument by keeping public access to traditional uses."

House Natural Resources Chairman Rob Bishop (R-Utah) said today that the report will not be publicly released until the White House has had time to review the recommendations and determine whether it will pursue any of the proposed cuts.

"They need time to read the report," said Bishop, who noted he had spoken with Zinke but was not familiar with the details of the report. "It is appropriate to give people time to think and see this report before they make it public."

A White House official confirmed to E&E News today that the president has received a copy of the document but did not respond to inquiries about when it would be publicized.

"President Trump has received Secretary Zinke's draft report for the Antiquities Act and is currently reviewing his recommendations to determine the best path forward for the American people," said the official who spoke on the condition of background.

Zinke also told AP he wants to protect tribal interests and historical land grants, citing two monuments in New Mexico, where Hispanic ranchers opposed President Obama's designations.

The Bangor Daily News reported that no major changes are expected to be made to the Katahdin Woods and Waters National Monument. Maine Gov. Paul LePage (R) is an outspoken opponent of the monument.

The secretary's report follows a 120-day review mandated by Trump in late April. The assessment included 27 monuments designated since 1996, all but one of which encompass more than 100,000 acres.

Interior released a [summary](#) of Zinke's report but did not include any details about which monuments he has targeted for reductions. The two-page document outlined Zinke's review process and noted he had visited eight of the sites under review.



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"No President should use the authority under the Antiquities Act to restrict public access, prevent hunting and fishing, burden private land, or eliminate traditional land uses, unless such action is needed to protect the object," Zinke said in a statement. "The recommendations I sent to the president on national monuments will maintain federal ownership of all federal land and protect the land under federal environmental regulations, and also provide a much needed change for the local communities who border and rely on these lands for hunting and fishing, economic development, traditional uses, and recreation."

Conservationists suggested that even without the detailed report, any reductions to monuments would result in the "exploitation" of public lands.

"Secretary Zinke is selling out Montana values and putting at risk the economies of Western communities solely to appease a few special interests," said Western Values Project Executive Director Chris Saeger.

He added: "While it's not surprising that Secretary Zinke was willing to let lobbyists in Washington, D.C., decide the fate of Western public lands, we remain confident that the administration has no legal path to implement this unprecedented attempt at executive overreach."

Although presidents have previously reduced the boundaries of a monument, none has done so since President Kennedy altered the acreage of the Bandelier National Monument in New Mexico in 1963. Conservationists argue that the adoption of the Federal Land Policy and Management Act in 1976 has since eliminated that ability.

Both Democratic lawmakers and conservationists have said that should Trump attempt to slash the size of any monuments, it could prompt legal action.

"A presidential decision to partially revoke a national monument by shrinking its size is no more lawful than a decision to revoke one altogether," said former Interior Department Deputy Solicitor for Land Resources Justin Pidot, who is now an associate professor at the University of Denver Sturm College of Law.

"The Antiquities Act provides no such authority," he added. "It's also important to remember that under the Antiquities Act, the objects of historic or scientific interest identified by a president are



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themselves the national monument. To shrink the boundaries of a monument to leave such an object unprotected is precisely the same as revoking the monument as to that object."

The Antiquities Act says that the "smallest area compatible" with the care of the objects to be protected should be designated as a monument.

No president to date has tried to rescind a monument designated by one of his predecessors.

Although President Franklin D. Roosevelt inquired about abolishing a monument created by President Coolidge in 1938, he did not seek to do so after an opinion issued by then-Attorney General Homer Cummings indicated he could not.

Cummings wrote at the time that because designations are equivalent to an act of Congress, only lawmakers could abolish a monument.

Zinke had previously dismissed reviews of six monuments without recommending any alterations to boundaries or management plans: the Craters of the Moon National Monument and Preserve in Idaho, Hanford Reach National Monument in Washington state, Canyons of the Ancients National Monument in Colorado, Upper Missouri River Breaks National Monument in Montana, Grand Canyon-Parashant National Monument in Arizona, and Sand to Snow National Monument in California.

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#### 7. REGULATIONS: Group sues for EPA documents on rule rollbacks

*E & E News, Aug. 24 | Maxine Joselow*

An environmental group is suing U.S. EPA over its failure to release regulatory reform documents under the Freedom of Information Act.

The Southern Environmental Law Center filed the [suit](#) yesterday in the U.S. District Court for the Western District of Virginia, alleging EPA failed to respond to the group's FOIA request for records on the agency's regulatory reform efforts.

The center is seeking information that would clarify EPA's process for deciding which regulations to target for repeal.



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The regulatory reform process at EPA was kicked off in February, when President Trump signed an executive order establishing regulatory task forces at all federal agencies (Greenwire, Feb. 24).

The move followed a January executive order requiring that two regulations be revoked for every new one (Greenwire, Jan. 30).

EPA didn't respond today to a request for comment.

Kym Hunter, staff attorney at SELC, called EPA's refusal to share information about its regulatory reform process "alarming and simply un-American."

Trump and EPA Administrator Scott Pruitt "are creating a hit list of health, safety, and environmental protections, and they are doing this behind closed doors," Hunter said in a [press release](#).

"As the EPA works to eliminate basic protections as quickly as possible and continues its disturbing pattern of zero transparency or accountability, we will continue to demand the information Southerners have a right to access in order to fight back against policies that will harm the people and places they love," Hunter said.

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#### 8. FOREST SERVICE: New chief a 'stubborn gentleman' who listens to his rivals

*E & E News, Aug. 24 | Marc Heller*

When Tony Tooke became regional forester for 13 Southern states in 2015, he made a promise that's shaped his reputation at the Forest Service: He wanted to meet soon with every state forester in the region.

"It amazed me, considering how busy his schedule was," Virginia State Forester Bettina Ring recalled this week.

Tooke kept his word, emerging as a good listener who's well-prepared for his new role as chief of the Forest Service beginning Sept. 1, said Ring and other people who've worked with him.



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"He gets the key players feeling like it's their vision," said Tom Martin, president and CEO of the American Forest Foundation, a conservation group representing family forest owners.

People familiar with Tooke, currently the agency's regional forester for the Southern Region, say he's been eager to hear from the wide range of groups with competing interests in environmental protection, recreation and commercial timber production. That's good, Martin said, because when Tooke starts the job, one of his biggest challenges will be to face a similar "suite of expectations" on a national scale.

Tooke didn't reply to an emailed request for an interview, and a Forest Service spokeswoman, Babete Anderson, said the agency wouldn't make him available for interviews until he's in the new position.

Tooke's willingness to travel the Southern Region and sit down with state foresters made a positive impression. In contrast to Western states' wide expanses of federal land, most forested land in the South is owned privately or by states, and Tooke's promise to meet face to face with local representatives seemed ambitious, Ring said. State and private forestry receives a sliver of the agency's budget but spreads the Forest Service's reach beyond national forests that dominate in the West.

Tooke didn't stop there. When wildfires struck the region in the past year, Ring said, Tooke pulled state and local forestry officials together for discussions about the lessons they learned and how agencies might confront fires in the future.

Tooke does have critics; the Sierra Club and other environmental groups opposed a Forest Service draft environmental impact statement on a proposed gas pipeline going through the George Washington and Jefferson National Forests he oversees, saying it ignores severe and long-lasting impacts.

And last year, Tooke apologized in writing to American Indian tribes for the Forest Service's erosion control work in 2014 — before he was on the job — that damaged sections of the Trail of Tears on the edge of the Cherokee National Forest in Tennessee. But the agency was slow to make repairs and didn't hold employees sufficiently accountable, said Jeff Ruch, executive director of Public Employees for Environmental Responsibility, which called for an investigation by the Department of Agriculture.



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A native of Alabama, Tooke, 55, received an undergraduate degree in forestry from Mississippi State University and went to work for the Forest Service as a teenager. He owns about 200 acres of forest and has a knack for storytelling as well as listening, Ring said. Because of his personal experience in private forest management, Tooke identifies with the South's greatest forestry priorities, including maintaining mixed uses for forests, limiting encroachment by commercial development and restoring the once-widespread longleaf pine, she said.

He's also "the essence of a stubborn gentleman," who's honest, polite and forthright — and sticks to his convictions, said Jim Furnish, a retired deputy Forest Service chief who's worked with Tooke as a contractor on forest management issues.

Like outgoing Forest Service Chief Tom Tidwell, forest groups said, Tooke has experience as a regional forester that gives him an appreciation for state and private forestry. That policy area sometimes operates in the shadows, compared with headline-grabbing challenges such as the climbing cost of wildfires, which now take up more than half the agency's annual budget of slightly more than \$5 billion.

Furnish said he gained a sense of Tooke's willingness to hear competing ideas when the regional forester helped arrange for Furnish to speak about his memoir, "Toward a Natural Forest," at an event in 2015, despite other Forest Service officials' negative reaction to the book, which takes a sometimes-critical look at the agency's relationship with the timber industry.

Tooke has developed a working relationship with some of the agency's critics, including the Southern Environmental Law Center, said Sam Evans, the organization's staff attorney and leader of the national forests and national parks program. Tooke met with locals over dinners and in other settings "without at all micromanaging his local Forest Service staff," Evans said.

"My overall impression of him is one of great respect," Evans said. "We'll be sorry to lose him in the region."

How big an impact Tooke can make on national forest policy remains to be seen. As a Southerner, he and Agriculture Secretary Sonny Perdue — who oversees the Forest Service as part of the Department of Agriculture — share a connection that could give Tooke a boost if he wants to pursue changes, Furnish said. Tooke will have about a six-month honeymoon period in which to set the tone, Furnish said.



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He'll also have to manage the agency's relationship with Congress, where some members lean toward environmental protection while leaders on key panels push for more active forest management and timber production, a debate that has slowed progress on changing how the Forest Service pays for wildfire suppression.

Disagreements over timber harvests helped sink Tidwell's efforts on wildfire budgeting, said former Agriculture Secretary Tom Vilsack, who also personally lobbied lawmakers on the issue.

"We almost got it done," Vilsack said, before Senate Energy and Natural Resources Chairwoman Lisa Murkowski (R-Alaska) and ranking member Maria Cantwell (D-Wash.) made clear that they'd insist on a more pro-timber approach at the Forest Service. "We just could never get those two in the right place."

In addition, Tidwell largely missed an opportunity during President Obama's administration to push a conservation-minded agenda at the Forest Service, leaving the agency "a bit rudderless," Furnish said.

Furnish said the agency should look for ways to rein in spending on wildfires, which might include environmentally focused ideas that make higher-ups in the Trump administration uncomfortable. "They need to pick up a win, and really get moving."

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#### 9. **WILD HORSES: Exploding population risks starvation — Interior official**

*E & E News, Aug. 24 | Price/Sonner, AP/Las Vegas Review-Journal*

Federally protected wild horses in 10 Western states pose a threat to rangelands, state and federal officials said at a conference yesterday.

The wild horses' population has exploded to nearly three times more than the rangeland can support, according to federal officials.

Attending the invitation-only National Horse and Burro Summit in Salt Lake City were members of Utah's congressional delegation, including Rep. Rob Bishop (R), as well as an Interior Department official.



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Speakers said wild horses and burros, which compete for food with other animals, are at risk of starvation. "There is nothing humane or majestic to see a wild horse starving to death or a wild burro dying of thirst," said Aurelia Skipwith, Interior deputy assistant secretary for fish, wildlife and parks.

Congress should grant a budget request from President Trump that would let wild horses be sold without making buyers promise they won't resell the horses for slaughter, Skipwith said.

Horse protection groups were not invited and protested against the event, dubbing it a "slaughter summit" (Greenwire, Aug. 22).

"It's a collection of politicians and lobbyists for the agriculture industry, and the sole purpose is to advance their agenda of slaughtering America's wild horses," said Suzanne Roy, director of the American Wild Horse Campaign (Price/Sonner, AP/Las Vegas Review-Journal, Aug. 23). — MJ

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### 10. GRID: 'If it's a plan to save coal, it's not a very good one'

*E & E News, Aug. 24 | Hannah Northey*

A "schizophrenic" attempt to rescue the coal industry. A level-headed assessment. A "nothing burger."

That's a sampling of reactions to the release late yesterday of a much-hyped, long-awaited report from Energy Department staff in response to Secretary Rick Perry's concerns about coal and nuclear plant closures. Some are calling the 187-page compilation of federal data a Rorschach test for energy policy wonks.

"It's a really complicated issue," said Ari Peskoe, a senior fellow at Harvard Law School's Environmental Policy Initiative. "Finding the correlations and the causations is not obvious, and people see what they want when they're interested parties."

While the report clearly blames cheap natural gas for driving the shutdowns of coal-fired and nuclear power plants without condemning renewable energy, critics say the clarity stops there.



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The report's eight policy recommendations stop short of calling for any regulatory or policy changes. Instead, the report uses "should" and "encourage" to nudge U.S. EPA toward easing rules on coal plants and the Federal Energy Regulatory Commission toward changing how wholesale power is traded. It also calls for relaxing permit rules for new nuclear, hydro and coal projects.

But Peskoe said those recommendations are hardly showstoppers.

Asked whether the document — now stripped of references to climate change — lays out a strategy for the Trump administration to save the coal industry, Peskoe replied, "If it's a plan to save coal, it's not a very good one."

Yet the dense technical language is fueling debate about DOE's intent and how the industry or the Trump administration plans to use the recommendations.

DOE career staffers said yesterday that they agree with the research, findings and policy recommendations. And the author of a leaked version of the study — Alison Silverstein, a former FERC official and Texas energy consultant — called the final product "balanced and objective" without favoring "any specific resource, sector or position" (Energywire, Aug. 24).

But others say the absence of climate references and the chasm between the body of the text and the report's suggestions for EPA, FERC and other agencies raise questions.

"Instead, they present a pro-coal agenda of President Trump, and show the fingerprints of a team of political appointees with long ties to the fossil fuel industry," said David Pomerantz, executive director of renewable energy policy watchdog group the Energy and Policy Institute.

Don Furman, a former executive at the utility PacifiCorp who now heads the Fix the Grid Coalition, commended the DOE staff's "beautiful" work but said the bulk of the study doesn't support its policy recommendations.

The bottom line, he said, is that coal and nuclear can't compete in today's energy markets.

"The conclusion that coal and nuclear are needed for reliability and resiliency — I went through the report in detail and found nothing that says we have to have these power plants or the lights are going to go out," he said.



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#### **Spin cycle**

Although the study remains relatively neutral on fuel types and concludes the grid is operating reliably, at least one mining-state lawmaker embraced the language as support for coal.

"I urge my colleagues to recognize that without coal, our country will face a reliability crisis in the very near term," Democratic Sen. Joe Manchin of West Virginia said. "This study recognizes the reality that today's electric markets and market rules have tilted the playing field against traditional baseload generation, particularly nuclear and coal-fired power plants."

The senator's comments were followed by DOE's [announcement](#) of \$50 million for two large-scale coal plants.

A flashpoint in the DOE report is a recommendation that encourages EPA to ease regulatory requirements for coal-fired power plants.

Specifically, the report suggests changes to the Clean Air Act's New Source Review (NSR) program, which requires utilities to get pre-construction permits before building a new plant or making major changes to an existing one.

The report says uncertainty associated with NSR requirements "creates an unnecessary burden" that discourages installations of carbon dioxide emissions control equipment and efficiency investments "because of the additional expenditures and delays associated with the permitting process."

The authors also cited a 2002 EPA study — done at the request of a task force headed by then-Vice President Dick Cheney — that found the NSR program had led to project cancellations that would have improved grid reliability and efficiency. Without offering specific ideas, the new DOE report urges EPA to allow coal-fired plants to improve performance "without triggering new regulatory approvals and associated costs."

Asked for comment, an Edison Electric Institute spokesman in an email pointed to formal comments filed in 2014 on the Obama administration's proposed Clean Power Plan rule to curb carbon dioxide emissions at power plants.



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In those comments, the utility trade group warned that New Source Review concerns would create disincentives to making coal-fired plants run more efficiently and urged EPA to clearly state in the final rule that any efficiency-related upgrades — known as "heat rate improvements" — "do not trigger NSR."

John Walke, clean air director at the Natural Resources Defense Council, labeled the report's findings "bunk" and said in an interview that he knew of no power producer that has sought to retrofit a power plant with CO<sub>2</sub> emission controls or cited NSR requirements as a barrier to doing so. Walke also saw the authors' reliance on the 2002 EPA report as evidence of Trump administration meddling.

"They have to give the politicos what they wanted, and to do that, they had to reach back 15 years rather than making the case based on today's actual facts concerning coal-fired power plants," he said.

But Harvard's Peskoe questioned what effect the report would have on the Trump EPA, which is already moving to ease regulatory burdens for coal.

"The EPA appears like it's already heading in this direction," he said, "and this report isn't likely to alter their course."

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#### 11. AP Explains: What's a National Monument?

*US News, Aug. 23 | John Flesher, AP*

U.S. Interior Secretary Ryan Zinke is recommending boundary revisions for some national monuments but no eliminations. President Donald Trump ordered Zinke to conduct an unprecedented review of 27 monuments established by former presidents over more than two decades on lands revered for their natural beauty and historical significance.

Zinke isn't providing details of his plan, beyond proposals disclosed earlier to downsize the Bears Ears monument in Utah and leave six others unchanged. He also says no monuments would be eliminated. Still, any move by Trump to slim down monuments may trigger legal



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showdowns over whether one chief executive can undo or modify another's decisions about them.

A closer look at the issues:

#### WHAT IS A NATIONAL MONUMENT?

The 1906 Antiquities Act, enacted under President Theodore Roosevelt, empowers the president to declare as national monuments any landmarks, structures and other "objects of historic or scientific interest" on land owned or controlled by the federal government. Roosevelt established 18 monuments, including the Grand Canyon in Arizona and Devil's Tower in Wyoming. Most presidents since then have designated additional monuments. Congress has created others.

Most monuments are overseen by the National Park Service, although rules for their protection are less strict than for national parks. Some are cared for by the federal Bureau of Land Management, the Fish and Wildlife Service or the Forest Service. Each agency has policies for safeguarding the land while also allowing some public use. For instance, policies can include limits on mining, timber cutting and recreational activities such as riding off-road vehicles.

#### A CONTENTIOUS HISTORY

Many national monument proclamations have enjoyed broad support. Others have been fiercely contested in Congress and the courts, including designations by Franklin D. Roosevelt (Jackson Hole National Monument, now Grand Teton National Park); Jimmy Carter (vast lands in Alaska); and George W. Bush (Papahanaumokuakea Marine National Monument northwest of Hawaii).

Trump's choice of Jan. 1, 1996, as the starting date for his review was prompted by lingering resentment among Utah conservatives of Bill Clinton's designation of the Grand Staircase-Escalante National Monument that year.



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Critics say presidents increasingly are protecting areas that are too large and do not fit the law's original purpose of shielding particular historical or archaeological sites. Designating millions of acres for scientific observation or sheltering rare species, they contend, is a "federal land grab" that ignores the wishes of local residents, although the lands already belonged to the government or were under federal control.

Zinke says the pendulum has swung too far toward protecting public lands and away from the "multiple-use" concept advanced by Gifford Pinchot, the first chief of the Forest Service and an early leader in the conservation movement.

Monument supporters say the designations are essential to protect sensitive areas from looting and damage. Complaints about people getting kicked off the land are exaggerated, they say, and opposition fades as nearby communities benefit from tourism the monuments attract. A 2014 study by the nonprofit research group Headwaters Economics found that indicators such as employment, population and per-capita income held steady or improved in sections of the West where monuments larger than 10,000 acres had been established since 1981.

#### LEGAL PRINCIPLES

Some monuments have been downsized over the years, either by presidential order or by Congress, while others have been enlarged. No such actions have been contested in court. No president has tried to revoke a predecessor's designation of a monument. Zinke said he isn't recommending that Trump do so, although Trump could overrule him.

The Antiquities Act does not explicitly say whether a president can nullify a monument proclamation or reduce a monument's area. A legal analysis commissioned by the National Parks Conservation Association cites a 1938 opinion by then-Attorney General Homer Cummings, who wrote that a monument designation has the force of law and can be reversed only by Congress. A House report accompanying the Federal Land Policy and Management Act of 1976 agreed, as do some environmental attorneys.

But a study for the conservative American Enterprise Institute released in March argues that when Congress authorizes the executive branch to write regulations, the power to repeal them generally can be assumed. That's especially so, it says, when a president is correcting a



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predecessor's act that exceeded what a law intended — such as creating vast monuments when the Antiquities Act says they should consist of "the smallest area compatible with the proper care and management of the objects to be protected."

#### WHAT'S NEXT?

Zinke's report goes to Trump, who will make the final call about whether to change the status of any monuments. Environmental groups and Native American tribes are expected to challenge any eliminations or reductions.

Congressional Republicans have at least five pending bills that would deny the president unilateral authority to designate future monuments, requiring approval of Congress or the governors and legislatures in affected states. Some would add further conditions.

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#### **12. NATIONAL MONUMENTS: Zinke says 'campaign' drew comments favoring protections**

*E&E News, Aug. 24 | Jennifer Yachnin and Cecelia Smith-Schoenwalder*

Interior Secretary Ryan Zinke today appeared to dismiss more than 1 million public comments urging the preservation of dozens of national monuments as the result of a "well-orchestrated national campaign," as he called on President Trump to slash the acreage of a "handful" of sites.

During his 120-day review of 27 national monuments, Zinke repeatedly highlighted his agency's decision to collect public input at [Regulations.gov](#) — arguing the website would provide a larger avenue for input than holding individual public forums.

"We have done more than any other administration reaching out to everybody," Zinke said during a visit to Utah earlier this year where he promoted the website (Greenwire, May 11).

But in a two-page [summary](#) of his review process released today, Zinke appeared to dismiss those public comments.



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"Comments received were overwhelmingly in favor of maintaining existing monuments and demonstrated a well-orchestrated national campaign organized by multiple organizations," Zinke wrote. "Opponents of monuments primarily supported rescinding or modifying the existing monuments to protect traditional multiple use, and those most concerned were often local residents associated with industries such as grazing, timber production, mining, hunting and fishing, and motorized recreation."

An Interior spokesperson did not respond to requests for clarification on Zinke's remarks.

WildEarth Guardians' New Mexico-based public lands guardian, Chris Krupp, fired back at Zinke's characterization of the public comments, noting that the submissions showed near unanimous support for the monuments.

"Of course Zinke neglects to mention specifics. Yes, there was an organized campaign, but you don't get 99 percent opposition to anything unless it's completely reprehensible," Krupp said. "And if any significant public support for abolishing national monuments could have been found I guarantee that resource industries that will benefit from this would have organized it. But that public support is just not there."

The secretary revealed today that he will recommend that President Trump reduce the acreage of a "handful" of monuments but has not publicly revealed which sites could be cut (Greenwire, Aug. 24).

House Natural Resources Chairman Rob Bishop (R-Utah) confirmed the report would not be publicly released until the White House has determined whether it will carry out those recommended cuts.

President Trump ordered a review of all national monuments created since 1996 that include more than 100,000 acres.

In recent weeks, Zinke has dismissed six sites from the review: the Craters of the Moon National Monument and Preserve in Idaho, Hanford Reach National Monument in Washington state, Canyons of the Ancients National Monument in Colorado, Upper Missouri River Breaks National Monument in Montana, Grand Canyon-Parashant National Monument in Arizona, and Sand to Snow National Monument in California. He also issued an interim report in which he called for unspecified cuts to Bears Ears National Monument in Utah.



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Zinke also told AP he wants to protect tribal interests and historical land grants, citing two monuments in New Mexico, where Hispanic ranchers opposed President Obama's designations. Sources told the Bangor Daily News that a site in Maine is expected to remain unchanged.

#### **Reaction**

While Zinke did not call for the elimination of any monuments, environmentalists still criticized his decision to push reductions as well as Interior's refusal to release its full report.

"Secretary Zinke needs to level with the American people. Which priceless national monuments does he recommend shrinking? How many acres of stunning wilderness and cultural sites does he want stripped of protections?" said Drew Caputo, Earthjustice's vice president of litigation for lands, oceans, and wildlife.

He added: "Over 2.7 million Americans lifted their voices in support of national monuments in the largest public comment period in the Interior Department's history this summer. It's only right that Secretary Zinke now tells the American people what he is thinking about doing to some of our most cherished protected lands, instead of keeping his recommendations shrouded in secrecy."

Conservatives for Responsible Stewardship, a Republican environmental group, also slammed Zinke's decision to reduce the size of monuments.

"Never before has an American president been so hell-bent on scrapping protections to our nation's natural and cultural heritage, nor has a president so clearly abandoned the conservation ethic of Theodore Roosevelt," CRS President David Jenkins said in a statement. "There is certainly nothing conservative about this illegal — and overwhelmingly unpopular — attempt to rollback our beloved national monuments."

Similarly, Center for Western Priorities Executive Director Jennifer Rokala dismissed Zinke's announcement that he would not advise the elimination of any monuments as a positive outcome.

"If Secretary Zinke expects Americans to be thankful because he wants to merely erase large chunks of national monuments instead of eliminating them entirely, he is badly mistaken," she said.



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In the event Trump does push to reduce the size of any monuments, several conservation groups including the Wilderness Society as well as Democrats like New Mexico Sen. Tom Udall have suggested that lawsuits will be filed in an effort to block those changes.

"This summary is not transparent, and this is not how our government should do business. The threat to New Mexico's monuments is very real," said Udall, pointing to Zinke's comments in reference to the Organ Mountains-Desert Peaks and Rio Grande del Norte national monuments.

Udall added: "If Secretary Zinke has recommended serious reductions to any of our national monuments, he has badly misjudged the authority granted to the administration under the Antiquities Act. I do not believe the administration can legally shrink any monument designation, and I intend to pursue all available avenues to fight what would be an unprecedented attack on our public lands."

But the conservative Pacific Legal Foundation, which has argued Trump is permitted under the Antiquities Act of 1906 to both designate and diminish monuments, praised the expected cuts.

"This review has been sorely needed and the Department of the Interior's clear endorsement of the president's power to modify these monuments is a positive sign that it takes Antiquities Act abuse seriously," said Pacific Legal Foundation attorney Jonathan Wood, who specializes in environmental and constitutional law.

#### **Antiquities Act revamp**

Bishop announced today that he plans to pursue legislation to overhaul the Antiquities Act but said he does not plan to do so until the full report has been released by the White House. Bishop said he had talked with Zinke about the review but had not seen the report himself as of this morning.

"The process is broken. It is not working as intended. It needs to be reformed," said Bishop, a longtime critic of the Antiquities Act as well as the Bears Ears and Grand Staircase-Escalante national monuments in his home state.

Bishop added that he does not have a specific timeline for his legislation — which would likely include some sort of requirement for public input on monuments ahead of their designation.



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"It has to be sooner rather than later because the problem will not be solved until we actually have Congress step up and do it," he said.

#### **Protesters**

The Sierra Club and other groups protested today in front of Interior's Washington headquarters against any changes to national monuments.

Alex Taurel of the League of Conservation Voters led a chant aimed at Trump: "Keep your tiny hands off our public lands."

Mark Magaña, president and CEO of GreenLatinos, said he wanted the monuments to stay the same so that the next generations can enjoy them. Taking the opportunity away from children to visit these monuments would be a shame, he said.

"I don't believe that you have a right to do that, and I don't believe that at the end of the day it will withstand public pressure or will withstand courts," he said.

Lena Moffitt, the director of Sierra Club's Our Wild America campaign, had a more blunt message for the Trump administration.

"No surprise, these guys continue to pander to the private, extractive industries that want to take away our public lands — our shared spaces that so many people hold dear — so that they can open them up to mining and drilling and logging and commercial fishing," she said.

Moffitt said that the Sierra Club is ready to take the issue to court.

"Right now, some of our lawyers are probably not here because they are back at their desks getting ready to sue the bastards," she said.

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